

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NORTH DAKOTA  
NORTHWESTERN DIVISION**

Sandra Martell,	)	
	)	
Plaintiff,	)	<b>REPORT AND RECOMMENDATION</b>
	)	
vs.	)	
	)	
Dirk Kempthorne, Secretary, United States	)	
Department of Interior, or his predecessor-	)	
in-office; United States Department of	)	Case No. 4:07-cv-097
Interior,	)	
	)	
Defendant.	)	

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The Plaintiff initiated the above-entitled action by filing a complaint on December 11, 2007. The Clerk's Office issued summonses that same day. There is nothing in the record, however, to reflect that any of these summonses have been served upon the Defendants.

The undersigned issued an Order to Show Cause on April 18, 2008, directing the Plaintiff to update the court on the status of this action by May 19, 2008, and otherwise show cause why this matter should not be dismissed for failure to prosecute. On motion by the Plaintiff, the undersigned subsequently extended the deadline to show cause until June 2, 2008.

This case has been lingering on the court's docket in excess of seven months with little sign of activity. To date there is nothing in the record to indicate that the Defendants have been served with copies of the summons and complaint. Moreover, the Plaintiff has yet to share with the court her efforts to accomplish service or otherwise demonstrate why this matter should not be dismissed for failure to prosecute despite being given ample time and opportunity to do so.

“District courts have inherent power to dismiss sua sponte a case for failure to prosecute.” Miller v. Benson, 51 F.3d 166, 168 (8th Cir. 1995) (reviewing the district court’s exercise of this power for abuse of discretion.”); see also Sterling v. United States, 985 F.2d 411, 412 (8th Cir. 1993) (citing Link v. Wabash R.R. Co., 370 U.S. 626, 630-33 (1962)); Fed. R. Civ. P. 41(b). For the reasons set forth above, its exercise of this power is warranted in this instance. Accordingly, the undersign **RECOMMENDS** that the above-entitled action be **DISMISSED** without prejudice for failure to prosecute.

**NOTICE OF RIGHT TO FILE OBJECTIONS**

Pursuant to Local Rule 72.1(3)(4), any party may object to this recommendation within ten (10) days after being served with a copy of this Report and Recommendation. .

Dated this 9th day of June, 2008.

/s/ Charles S. Miller, Jr.  
Charles S. Miller, Jr., Magistrate Judge  
United States District Court